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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,525	12/20/2000	Paul E. Fumer	J-2992A	9996

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EXAMINER

BARROW, JAMES G

ART UNIT PAPER NUMBER

3743

DATE MAILED: 09/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,525

Applicant(s)

FURNER ET AL.

Examiner

James G. Barrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38,48,51 and 52 is/are allowed.
- 6) ☒ Claim(s) 41,43,44,49,53 and 54 is/are rejected.
- 7) ☒ Claim(s) 39,40,42,45,46,50 and 55-57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 0200 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 39 is objected to because of the following informalities: Applicant has previously claimed "a consumable wick" and "a solid fuel". Appropriate correction is required.

Claim 49 is objected to because of the following informalities: Applicant has previously claimed "a consumable wick" and "a solid fuel". Appropriate correction is required.

Claim 44 is objected to because of the following informalities: Applicant has previously claimed "a consumable wick" and "a solid fuel". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 39 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 39 claims "a replaceable fuel element ... to cooperatively engage said heat conductive melting plate and lobe while there is enablement individually for a replacement solid fuel and wick to fit the lobe of the melting plate there is no amount of

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direction provided by the inventor in the specification for this combination or any existence of working examples.

Claims 43 and 44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 43 claims "a wick holder with fins" is dependent on claim 38 which claims a heat conductive lobe" and claim 44 claiming "a replaceable fuel element ... to cooperatively engage ... lobe, and wick holder with fins", there is no amount of direction provided by the inventor in the specification for this combination or any existence of working examples.

Claim 49 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 49 claims "a replaceable fuel element ... to cooperatively engage said heat conductive melting plate and lobe while there is enablement individually for a replacement solid fuel and wick to fit the lobe of the melting plate there is no amount of direction provided by the inventor in the specification for this combination or any existence of working examples.

Claims 53 and 54 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 53 claims "a wick holder with fins" is dependent on claim 38 which claims a heat conductive lobe" and claim 54 claiming "a replaceable fuel element ... to cooperatively engage ... lobe, and wick holder with fins", there is no amount of direction provided by the inventor in the specification for this combination or any existence of working examples.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 41 recites the limitation "the replaceable fuel element ... heat conductive melting plate" in lines 1-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 46 recites the limitation "replaceable fuel element ... said wick older with fins" in lines 1-3. There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

Claims 38, 48, 51, and 52 are allowed.

Claims 42, 45, 46, 50, and 55-57 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The independent claims disclose a heat conducting lobe as part of the container which is not present in any of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

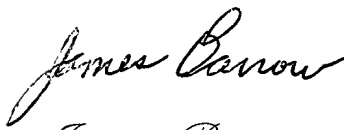
Response to Arguments

Applicant's arguments with respect to claims 21, 24-26, 29, 30, and 32 have been considered but are moot in view of the cancellation of claims 21, 24-26, and 28-37 which has necessitated a new round of 112, first and second paragraph rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James G. Barrow whose telephone number is (703) 305-5427. The examiner can normally be reached on M-F, 9:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


James Barrow
September 8, 2003


Henry Bennett
Supervisory Patent Examiner
Group 3700